

CR 15

00365

SEALED BY ORDER  
OF THE COURT

LHK

Filed  
JUL 09 2015  
RICHARD A. WILKINSON  
CLERK  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

## SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs.

NIMA KALBASI

## INDICTMENT

Counts One &amp; Two:

18 U.S.C. § 1030(a)(2)(C) & (c)(2)(B)(ii) –Felony  
Computer Intrusion;

Count Three:

18 U.S.C. § 1030(a)(2)(C)-Misdemeanor  
Computer Intrusion*A true bill.*

Foreperson

Filed in open court this  
A.D. 2015

9 day of

July

  
United States Magistrate Judge

Bail. \$

No Bail Arrest Warrant



SEALED BY ORDER  
OF THE COURT

E-filing

Filed

JUL 09 2015  
RICHARD W. WIENING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

MELINDA HAAG (CABN 132612)  
United States Attorney

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

LHK

HRL

UNITED STATES OF AMERICA,

Plaintiff,

v.

NIMA KALBASI,

Defendant.

CASE NO. CR

VIOLATIONS: 18 U.S.C. § 1030(a)(2)(C) &  
(c)(2)(B)(ii) – Felony Computer Intrusion; 18 U.S.C.  
§ 1030(a)(2)(C) – Misdemeanor Computer Intrusion.

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Information:

1. The defendant, NIMA KALBASI (“KALBASI”), resided in Ontario, Canada. From November 2013 to December 2014, KALBASI was employed as a Mechanical Engineer for Tesla Motors, Inc. (“Tesla”).

2. Tesla was an electric automobile manufacturer headquartered in Palo Alto, California. Tesla’s e-mail server, located in Santa Clara County, California, was used in and affecting interstate and foreign commerce and communication, and constituted a “protected computer” pursuant to 18 U.S.C. § 1030(e)(2)(B).

U.S. v. KALBASI  
INDICTMENT

1           3.       On December 3, 2014, KALBASI was terminated from his position with Tesla. During  
2 his time as a Tesla employee, KALBASI was authorized to access the Tesla e-mail system remotely to  
3 check his work e-mail account. Following his termination, KALBASI's Tesla e-mail account was  
4 deactivated and KALBASI was not authorized to access the Tesla e-mail server for any reason.

5           4.       D.W. was KALBASI's manager while KALBASI was employed at Tesla and remained  
6 employed at Tesla after KALBASI's termination. D.W. had a Tesla e-mail account that he utilized to  
7 carry on his duties as a Tesla manager, and his e-mail account contained confidential communications  
8 involving employee evaluations and customer complaints.

9           5.       KALBASI obtained D.W.'s Tesla e-mail account username and password and used them  
10 to access D.W.'s Tesla e-mail account without D.W.'s knowledge or authorization. From  
11 approximately December 16, 2014 to approximately January 13, 2015, KALBASI logged into D.W.'s  
12 Tesla e-mail account without authorization approximately 297 times. During those unauthorized  
13 accesses, KALBASI downloaded private e-mails detailing employee evaluations and customer  
14 complaints. KALBASI also posted an e-mail with a customer complaint report on a public website, and  
15 made disparaging comments concerning the alleged quality issues that he then and there well knew to be  
16 false and misleading, all the while intending to harm Tesla's reputation and credibility.

17 COUNT ONE: (18 U.S.C. §§ 1030(a)(2) and (c)(2)(B)(ii) – Felony Computer Intrusion)

18           6.       The factual allegations in Paragraphs 1 through 5 are realleged as if set forth fully herein.

19           7.       On or about January 7 and 8, 2015, within the Northern District of California and  
20 elsewhere, the defendant,

21                               NIMA KALBASI,

22 intentionally accessed a protected computer used in interstate and foreign commerce and communication  
23 without authorization and exceeding authorized access, and thereby obtained information from a  
24 protected computer, that is, the Tesla e-mail server, and the offense was committed in furtherance of a  
25 criminal and tortious act in violation of the Constitution or laws of the United States and of any State;  
26 that is, defendant used the Internet to access the Tesla e-mail account of D.W., a Tesla employee,  
27 without authorization, and viewed confidential employee evaluations, private e-mails, and obtained an e-

1 mail containing a confidential customer complaint report therein, in furtherance of, among others, the  
2 California tort of "Intrusion into a Private Place, Conversation, or Matter."

3 All in violation of Title 18 United States Code, Sections 1030(a)(2)(C) and (c)(2)(B)(ii).

4 COUNT TWO: (18 U.S.C. §§ 1030(a)(2) and (c)(2)(B)(ii) – Felony Computer Intrusion)

5 8. The factual allegations in Paragraphs 1 through 5 are realleged as if set forth fully herein.

6 9. On or about January 7 and 8, 2015, within the Northern District of California and

7 elsewhere,

8 the defendant,

9 NIMA KALBASI,

10 intentionally accessed a protected computer used in interstate and foreign commerce and communication  
11 without authorization and exceeding authorized access, and thereby obtained information from a  
12 protected computer, that is, the Tesla e-mail server, and the offense was committed in furtherance of a  
13 criminal or tortious act in violation of the Constitution and laws of the United States and of any State;  
14 that is, defendant used the Internet to access the Tesla e-mail account of D.W., a Tesla employee,  
15 without authorization, and viewed and obtained an e-mail containing a confidential customer complaint  
16 report therein, in furtherance of, among others, the California tort of "False Light."

17 All in violation of Title 18 United States Code, Sections 1030(a)(2)(C) and (c)(2)(B)(ii).

18 ///

COUNT THREE: (18 U.S.C. § 1030(a)(2)(C) – Misdemeanor Computer Intrusion)

10. The factual allegations in Paragraphs 1 through 5 are realleged as if set forth fully herein.

11. On or about January 7, 2015, within the Northern District of California and elsewhere,  
the defendant,

NIMA KALBASI,

intentionally accessed a protected computer used in interstate and foreign commerce without  
authorization and exceeding authorized access, and thereby obtained information from a protected  
computer; that is, defendant used the Internet to access the contents of e-mail account of Tesla  
employee, D.W.

All in violation of Title 18, United States Code, Section 1030(a)(2)(C), a Class A Misdemeanor.

Dated: 9 Jul 2015

A TRUE BILL.

FOREPERSON

MELINDA HAAG  
United States Attorney

MATTHEW A. PARRELLA  
Chief, CHIP Unit

(Approved as to form: )  
AUSA HANLEY CHEW



SEALED BY ORDER  
OF THE COURT

E-filing

AO 257 (Rev. 6/78)

## DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING

## OFFENSE CHARGED

Unauthorized Access of a Protected Computer to Further  
Tort - 18 U.S.C. § 1030(a)(2)(C) & (c)(2)(B)(ii); Unauthorized  
Access of a Protected Computer - 18 U.S.C. § 1030(a)(2)(C)☐ Petty☐ Minor☒ Misdemeanor☒ Felony

PENALTY:

See Attachment to Penalty Sheet

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

Nima Kalbasi

DISTRICT COURT NUMBER

CR 15

00365

DEFENDANT

## IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

1) ☐ If not detained give date any prior  
summons was served on above charges2) ☒ Is a Fugitive3) ☐ Is on Bail or Release from (show District)

## IS IN CUSTODY

4) ☐ On this charge5) ☐ On another conviction☐ Federal ☐ State6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer  
been filed? ☐ Yes  
☐ NoIf "Yes"  
give date  
filedDATE OF  
ARREST

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

DATE TRANSFERRED  
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

## PROCEEDING

Name of Complainant Agency, or Person (&amp; Title, if any)

FBI Special Agent Anthony Frazier

☐ person is awaiting trial in another Federal or State Court,  
give name of court☐ this person/proceeding is transferred from another district  
per (circle one) FRCrp 20, 21, or 40. Show District☐ this is a reprosecution of  
charges previously dismissed  
which were dismissed on motion  
of:☐ U.S. ATTORNEY ☐ DEFENSESHOW  
DOCKET NO.☐ this prosecution relates to a  
pending case involving this same  
defendantMAGISTRATE  
CASE NO.☐ prior proceedings or appearance(s)  
before U.S. Magistrate regarding this  
defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) Hanley Chew

## ADDITIONAL INFORMATION OR COMMENTS

## PROCESS:

☐ SUMMONS ☐ NO PROCESS\* ☒ WARRANT

Bail Amount: No Bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

\* Where defendant previously apprehended on complaint, no new summons or  
warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments:

Maximum Penalties: 1 year term of imprisonment  
\$100,000 fine  
1 year period of supervised release  
\$25 mandatory special assessment